### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,	)
Plaintiffs,	)
vs.	) 05-CV-0329 GKF-SAJ
TYSON FOODS, INC.,	)
Defendants.	)

### **NOTICE OF SUBPOENA TO PRODUCE DOCUMENTS**

Please take notice that Defendants Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Poultry, Inc., and Cobb-Vantress, Inc. (collectively "Tyson"), by their attorneys Ryan Whaley Coldiron Shandy PC, have subpoenaed records from Florida A&M University and Florida State University as specifically stated in the subpoenas attached hereto. The documents are to be delivered to the offices of Accurate Stenotype Reports, 2894 A Remington Green Lane, Tallahassee, Florida 32308 no later than May 4, 2009.

Respectfully submitted,

B₹ Patrick M. Ryan, OBA #07864 Paula M. Buchwald, OBA #20464 RYAN WHALEY COLDIRON SHANDY 900 Robinson Renaissance 119 North Robinson, Suite 900 Oklahoma City, OK 73102 (405) 239-6040 Telephone (405) 239-6766 Facsimile

COUNSEL FOR DEFENDANTS TYSON FOODS, INC., TYSON CHICKEN, INC., TYSON POULTRY, INC. and COBB-VANTRESS, INC.



### CERTIFICATE OF SERVICE

I certify that on the 16th day of April, 2009, I electronically transmitted the above and foregoing document to the following ECF registrants:

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and I further certify that a true and correct copy of the above and foregoing will be mailed via regular mail through the United States Postal Service, postage properly paid, on the following who are not registered participants of the ECF System:

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OKLAHOMA CITY, OK 73118

Paula M. Buchwald

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

### UNITED STATES DISTRICT COURT

for the

Northern District of Florida

STATE OF OKLAHOMA, et al	
Plaintiff v. T∀SON FOODS, INC., et al	Civil Action No. 4:05-CV-00329-GKF-PJC  (If the action is pending in another district, state where:
Dejendant	) USDC, N. District, Oklahoma
OR TO PERMIT INSIT	MENTS, INFORMATION, OR OBJECTS PECTION OF PREMISES  uce at the time, date, and place set forth below the following and permit their inspection, copying, testing, or sampling of the
Place: Accurate Stenotype Reporters 2894 A Remington Green Lane Tallahasses, FL 32308	Date and Time:  May 4, 2009
may inspect, measure, survey, photograph, test, or sample Place:	the property or any designated object or operation on it.  Date and Time:
The provisions of Fed. R. Civ. P. 45(c), relating to 45 (d) and (e), relating to your duty to respond to this subpattached.  Date: April 16, 2009	your protection as a person subject to a subpoena, and Rule oena and the potential consequences of not doing so, are
CLERK OF COURT	OR TO THE COMMENT
Signature of Clerk or Deputy Co	lerk Attorney's signature
The name, address, e-mail, and telephone number of the att	
Paula M. Buchwald, OBA #20464 Ryan Whaley Coldiron Shandy PC 900 Robinson Renaissance, 119 N. Robinson Oklahoma City, OK 73102 pjantzen@r	, who issues or requests this subpoent, are:

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (Page 2)

Civil Action No.

### PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

	cna for (name of individual and title, if any)	
was received by me	on (date)	
☐ I persona	ally served the subpoena on the individual at (place)	
•	On (date)	; or
☐ I left the	subpoena at the individual's residence or usual place of abode with (name)	<del></del> -
	, a person of suitable age and discretion v	who resides there,
on (date)	, and mailed a copy to the individual's last known address; or	•
☐ I served	the subpoena to (nume of individual)	, who is
designated	by law to accept service of process on behalf of (name of organization)	
	On (date)	; or
☐ I returned	d the subpoena unexecuted because	; or
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Unless the s	subpoens was issued on behalf of the United States, or one of its officers or agent the witness fees for one day's attendance, and the mileage allowed by law, in the	ts, I have also e amount of

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

- (c) Protecting a Person Subject to a Subpoena.
- (1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees on a party or attorney who fails to comply.
  - (2) Command to Produce Materials or Permit Inspection.
- (A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or triai.
- (B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.
- (3) Quashing or Modifying a Subpoena.
- (A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:
  - (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
  - (iv) subjects a person to undue burden.
- (B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.
- (C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

- (d) Duties in Responding to a Subpoena.
- (1) Producing Documents or Electronically Stored Information.

  These procedures apply to producing documents or electronically stored information:

Page 11 of 20

- (A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- (B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- (C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.
- (D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.
- (2) Claiming Privilege or Protection.
- (A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
  - (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
- (B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.
- (e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### ATTACHMENT A

### to Subpoena duces tecum served on the Custodian of Records for Florida A & M University

Florida A & M University ("the University") is requested to produce all of the following documents within the University's possession, custody, or control, subject to applicable Federal Rules of Civil Procedure and the definitions and instructions listed below.

### **DEFINITIONS**

1. "Document" or "documents" means the original and any identical or nonidentical copy, regardless of origin or location, of any writing or record of any type, including, but not limited to: any insurance policy; certificate of insurance; binder of insurance; pamphlet; letter; memorandum; telegram; telex; facsimile; report; record; study; handwritten or other note; working paper; chart; paper; graph; index; tape; disc; data sheet or data processing card; correspondence; table; analysis; schedule; bill; drafts of documents; questionnaire; contract; order; invoice; statement; electronic mail; computer printout; information stored in a computer; source code; programming outlines and flow charts; magnetic, electronic, or optical media; recordings of telephonic or personal communications, including voicemail; any other data compilations from which information can be obtained and/or translated; and any other form of written, recorded, transcribed, punched, taped, or memorialized information or data. "Document" or "documents" includes any form or media from which information can be perceived or that is used to memorialize human thought, speech, or action, and any other document, object, tangible thing, or writing discoverable under law. "Document" or "documents"

Case 4:05-cv-00329-GKF-PJC Document 1990-2 Filed in USDC ND/OK on 04/21/2009

> ATTACHMENT A to Subpoena duces tecum served on the Custodian of Records for Florida A & M University

shall also include copies containing information in addition to that contained in or on the original, and all the attachments, appendices, enclosures, or documents referred to in any documents called for by this Request.

- 2. "Relating to," "relate to," "relates to," or "related to" means relating in any way to, referring to, mentioning, discussing, describing, reflecting, concerning, memorializing, supporting, dealing with, consisting of, constituting, evidencing, comprising, recording, or in any other way pertaining to the subject, either in whole or in part, whether directly or indirectly,
  - "You" and "your" means the University. 3.

#### INSTRUCTIONS

- 1. Unless otherwise specified, all documents are to be produced as they are kept in the usual course of business so that the requesting party may ascertain the file in which they were located, the relative order of such files, and how such files are maintained.
- 2. In construing these requests, the plural shall include the singular and the singular shall include the plural; a masculine, feminine, or gender-neutral pronoun shall not exclude other genders; the words "and" and "or" shall be both conjunctive and disjunctive so as to require the production of the documents; "any" means "any and all"; "including" means "including without limitation"; and the past tense includes the present tense and vice versa.

ATTACHMENT A to Subpoena duces tecum served on the Custodian of Records for Florida A & M University

### DOCUMENTS REQUESTED

- 1. Copies of all documents relating to Dr. Christopher Teaf's adjunct teaching appointments and activities at Florida A & M University and/or the College of Pharmacy and Pharmaceutical Sciences, including:
  - a. the dates of all adjunct teaching appointments;
  - b. documents demonstrating whether the University or the College of Pharmacy compensated Dr. Teaf for his adjunct teaching appointments and if so, the amount of the compensation; and
  - c. the names and dates of the courses taught by Dr. Teaf.

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

### UNITED STATES DISTRICT COURT

for the

Northern District of Florida

Trottion Dibition	or or round
STATE OF OKLAHOMA, et al	Civil Action No. 4:05-CV-00329-GKF-PJC  (If the action is pending in another district, state where: USDC, N. District, Oklahoma
SUBPOENA TO PRODUCE DOCUMEN	
OR TO PERMIT INSPEC	CTION OF PREMISES
Rob Riuehart  Office of Registrar - Plorida State University UCA 3909 Tallahassee, FL 32306-2400	
2 Production: YOU ARE COMMANDED to produce documents, electronically stored information, or objects, and praterial:	
See Attachment A	
Place: Accurate Stenotype Reporters 2894 A Remington Green Lane Tallahassee, FL 32308	Date and Time:  May 4, 2009
other property possessed or controlled by you at the time, date may inspect, measure, survey, photograph, test, or sample the Place:	
The provisions of Fed. R. Civ. P. 45(c), relating to you 45 (d) and (e), relating to your duty to respond to this subpoen attached.	or protection as a person subject to a subpoena, and Rule a and the potential consequences of not doing so, are
Date: April 16, 2009	
CLERK OF COURT	OR A A
Signature of Clerk or Deputy Clerk	Attorney's signature
The name, address, e-mail, and telephone number of the attorn	ey representing (name of party) Tyson Defendants , who issues or requests this subpoena, are:
Paula M. Buchwald, OBA #20464 Ryan Whaley Coldiron Shandy	, and looded of requests this supposite, are.
900 Robinson Renaissance, 119 N. Robinson Oklahoma City, OK 73102 pjantzen@ryanwhaley.c	rom (405) 239-6040

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (Page 2)

Civil Action No.

### PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena	for (name of individual and title, if any)		
was received by me on		n 19 tanak - Tanan and Angara at Tanan and Angara at Angara and Angara at Angara at Angara at Angara at Angara	
☐ I personally	served the subpoena on the individual at (place)	)	
		On (date)	; or
☐ I left the sul	bpoena at the individual's residence or usual pla	ace of abode with (name)	
	, a person c	of suitable age and discretion wh	o resides there,
on (date)	, and mailed a copy to the indiv	idual's last known address; or	
☐ I served the	subpoena to (name of individual)		, who is
designated by	law to accept service of process on behalf of (na	ame of organization)	san dannang dibi di dan
		on (date)	; or
☐ I returned th	ne subpoena unexecuted because		; or
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other (specif)  Unless the sub	poena was issued on behalf of the United States witness fees for one day's attendance, and the n	, or one of its officers or agents,	
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Additional information regarding attempted service, etc:

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- (c) Protecting a Person Subject to a Subpoena.
- (1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees on a party or attorney who fails to comply.
  - (2) Command to Produce Materials or Permit Inspection.
- (A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
- (B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.
- (3) Quashing or Modifying a Subpoena.
- (A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:
  - (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
  - (iv) subjects a person to undue burden.
- (B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
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- (C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

- (d) Duties in Responding to a Subpoena.
- (1) Producing Documents or Electronically Stored Information.

  These procedures apply to producing documents or electronically stored information:
- (A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- (B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- (C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.
- (D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.
- (2) Claiming Privilege or Protection.
- (A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
  - (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
- (B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.
- (e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

# Attachment A to Subpoena duces tecum served on the Custodian of Records for Florida State University

Florida State University ("the University") is requested to produce all of the following documents within the University's possession, custody, or control, subject to applicable Federal Rules of Civil Procedure and the definitions and instructions listed below.

### **DEFINITIONS**

1. "Document" or "documents" means the original and any identical or non-identical copy, regardless of origin or location, of any writing or record of any type, including, but not limited to; any insurance policy; certificate of insurance; binder of insurance; pamphlet; letter; memorandum; telegram; telex; facsimile; report; record; study; handwritten or other note; working paper; chart; paper; graph; index; tape; disc; data sheet or data processing card; correspondence; table; analysis; schedule; bill; drafts of documents; questionnaire; contract; order; invoice; statement; electronic mail; computer printout; information stored in a computer; source code; programming outlines and flow charts; magnetic, electronic, or optical media; recordings of telephonic or personal communications, including voicemail; any other data compilations from which information can be obtained and/or translated; and any other form of written, recorded, transcribed, punched, taped, or memorialized information or data. "Document" or "documents" includes any form or media from which information can be perceived or that is used to memorialize human thought, speech, or action, and any other document, object, tangible thing, or writing discoverable under law. "Document" or "documents" shall also include copies containing information in addition to that contained in or on the original, and all the attachments, appendices, enclosures, or documents referred to in any documents called for by this Request.

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- 2. "Relating to," "relate to," "relates to," or "related to" means relating in any way to, referring to, mentioning, discussing, describing, reflecting, concerning, memorializing, supporting, dealing with, consisting of, constituting, evidencing, comprising, recording, or in any other way pertaining to the subject, either in whole or in part, whether directly or indirectly.
  - 3. "You" and "your" means the University.

#### **INSTRUCTIONS**

- 1. Unless otherwise specified, all documents are to be produced as they are kept in the usual course of business so that the requesting party may ascertain the file in which they were located, the relative order of such files, and how such files are maintained.
- 2. In construing these requests, the plural shall include the singular and the singular shall include the plural; a masculine, feminine, or gender-neutral pronoun shall not exclude other genders; the words "and" and "or" shall be both conjunctive and disjunctive so as to require the production of the documents; "any" means "any and all"; "including" means "including without limitation"; and the past tense includes the present tense and vice versa.

#### **DOCUMENTS REQUESTED**

- 1. Copies of all documents relating to Dr. Christopher Teaf's prior and current teaching, administrative, and/or research positions and assignments at Florida State University (the "University"), including:
  - a. classes, seminars, and/or courses, whether graduate or undergraduate, taught by Dr. Teaf at the University including, but not limited to the University's departments of biology, geology, and/or chemistry;
  - b. the dates Dr. Teaf taught such classes, seminars, and/or courses;
  - documents indicating whether students attending Dr. Teaf's classes, seminars, and/or courses received course credit for their work;
  - d. single or multi-day technical training courses and seminars taught by Dr. Teaf; and

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- f. documents demonstrating whether Dr. Teaf was paid by the University for his teaching, administrative, and/or research work.
- 2. Copies of documents related to grants and/or research projects in which Dr. Teaf was a participant and which identify:
  - a. the nature of such grants and/or research projects;
  - b. the dates of such grants and/or research projects;
  - c. the funding source for such grants and/or research projects; and
  - d. the reports, data, articles, or other written materials memorializing and/or documenting Dr. Teaf's work on such grants and/or research projects.
- 3. Copies of documents relating to Dr. Teaf's position as Associate Director at the Center for Biomedical & Toxicological Research and Waste Management (the "Center") and which demonstrate or identify:
  - a. the date that Dr. Teaf first began working in this position;
  - b. whether Dr. Teaf is paid by the Center for his work as Associate Director; and
  - e. the nature and scope of Dr. Teaf's responsibilities as Associate Director.
- 4. Copies of all documents relating to Dr. Teaf's adjunct teaching appointments at the Florida State University and/or State University System Program in Medical Sciences.